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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,286	08/17/2001	Steven B. McGowan	884.516US1	4742

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EXAMINER

HASHEM, LISA

ART UNIT PAPER NUMBER

2645

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/932,286	<b>Applicant(s)</b> MCGOWAN, STEVEN B.	
	<b>Examiner</b> Lisa Hashem	<b>Art Unit</b> 2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 17 August 2001.
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-6 and 34-40 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-6 and 34-40 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 17 August 2001 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Examiner acknowledges the cancellation of claims 7-33 in the Response to the Restriction Requirement filed on July 19, 2004.

#### *Drawings*

2. The drawings are objected to because all references numbers and letters in Figures 1-10 are in handwritten form. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### *Claim Objections*

3. Claims 4, 6, 36, 38, and 40 are objected to because of the following informalities: There is insufficient antecedent basis for 'from the group' in these claims. Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-6 and 34-40 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent Application Publication No. US 2003/0060219 by Parsiokas.

Regarding claim 1, Parsiokas discloses a sound generation device or interface device (Figure 1, 16; Figure 3, 16) comprising: an satellite receiver or audio source (Figure 3, 50) to generate an audio signal (section 0024, lines 1-10); a radio frequency (RF) transmitter or RF modulator (Figure 3, 56), coupled to the audio source, to transmit an RF carrier signal modulated with the audio signal, the RF carrier signal having a specific carrier frequency (section 0025, lines 1-3; section 0026, lines 6-9); and a channel locator controller or scanning receiver to identify an available carrier frequency (Figure 3, 58; section 0030, lines 1-34).

Regarding claim 2, the sound generation device recited in claim 1, wherein Parsiokas further discloses the channel locator controller comprises: an RF receiver, coupled to the RF transmitter, to receive RF signals having different carrier frequencies; and a channel locator circuit, coupled to the RF receiver, to identify a carrier frequency below a minimum signal strength (section 0025, lines 1-3; section 0026, lines 6-9; section 0030, lines 1-34).

Regarding claim 5, the sound generation device recited in claim 1, wherein Parsiokas further discloses the sound generation device further comprises: a channel selection circuit or

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scanning receiver, coupled to the RF transmitter, to select an available carrier frequency on which to transmit the RF carrier signal (Figure 3, 58; section 0030, line 1 – section 0031, line 3).

Regarding claim 6, the sound generation device recited in claim 1, wherein Parsiokas further discloses the sound generation device comprises equipment from a group comprising an MP3 (Motion Picture Experts Group, Audio Layer 3) player, a compact disk player, a mini-disk player, a micro-disk player, a digital video disk player, a cassette tape player, a radio, a cellular phone, a handheld computer, a portable computer, a television, a video player, a personal digital assistant, an electronic musical instrument, an electronic toy, and a wireless microphone (section 0024, lines 7-13).

Regarding claim 34, please see the rejections of the sound generation device in claims 1 and 2 mentioned above, to reject the sound generation device in claim 34.

Regarding claims 35-36 and 39-40, please see the rejections of the sound generation device in claims 5-6 mentioned above, respectively, to reject the sound generation device in claims 35-36 and 39-40.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-4 and 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. US 2003/0060219 by Parsiokas in view of U.S. Patent No. 6,085,090 by Yee et al, hereinafter Yee.

Regarding claims 3 and 4, the sound generation device recited in claim 1, wherein Parsiokas does not disclose the channel locator controller comprises: a stored program digital computer and a geo-position source.

Yee discloses an autonomous interrogatable information and position device (Figure 2, 100) to locate a called party or callee without externally revealing such location, and for allowing remote sensor information to be collected and or acted upon (column 2, lines 28-50). The device includes a stored program digital computer, the computer to store a database of available carrier frequencies arranged by geo-position (column 3, lines 13-24; column 6, line 62 – column 7, line 10); and a geo-position source (Figure 2, 120) coupled to the stored program digital computer to provide a geo-position to the stored program digital computer (column 3, lines 13-24; column 6, line 62 – column 7, line 10).

Yee further discloses the geo-position source comprises an element from a group comprising a cellular phone, a GPS (Global position system) receiver (Figure 2, 140), a geo-position programming device, a data entry device, and a programmable read only memory,

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wherein the element is a GPS receiver (column 3, lines 13-24; column 6, line 62 – column 7, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sound generation device of Parsiokas to include a stored program digital computer and a geo-position source as taught by Yee to identify an optimum available frequency. One of ordinary skill in the art would have been lead to make such a modification since a GPS receiver is used to determine a user's geo-position. Also, one or more available transmit frequencies can be accessed via the stored program digital computer.

Regarding claim 37, please see the rejections of the sound generation device in claims 1 and 3 mentioned above, to reject the sound generation device in claim 37.

Regarding claim 38, please see the rejection of the sound generation device in claim 4 mentioned above, to reject the sound generation device in claim 38.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- U.S. Patent No. 6,272,328 by Nguyen et al disclose a system for detecting the presence of an FM-modulated audio signal from an auxiliary source, and operating a switch to provide that audio signal to a tuner

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9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
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**Or faxed to:**

(703) 872-9314 (for formal communications intended for entry)

**Or call:**

(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to: Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (703) 305-4302. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

LH

lh

September 24, 2004

Allan Hoosain  
ALLAN HOOSAIN  
PRIMARY EXAMINER